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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,172	12/28/2000	Hugo Kroiss	951/49129	2142

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CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

EXAMINER

MCCALL, ERIC SCOTT

ART UNIT PAPER NUMBER

2855

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/700,172

Applicant(s)

KROISS ET AL.

Examiner

Eric S. McCall

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2855

ME

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 19 is/are allowed.
- 6) ☒ Claim(s) 8,9,16 and 22-28 is/are rejected.
- 7) ☒ Claim(s) 10-15,18,20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet, 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet, 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **FUEL SUPPLY SYSTEM FOR A MOTOR VEHICLE**

### **FINAL OFFICE ACTION**

In response to the Applicant's request for reconsideration dated Nov. 07, 2003.

### **CLAIMS**

#### **35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Unamended claims 8, 9, 16, and 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Tuckey (6,213,726) for the very same reasons as presented in the previous action.

With regards to claim 8, Tuckey teaches a fuel system for a motor vehicle with a fuel container (ie. fuel tank 12) from which a fuel pump (14) transports fuel via fuel pipelines (18) from a system input location (16) in the fuel container via a fuel filter (24) towards an engine, wherein a deposition tank is formed into a housing (38) of the fuel filter under a filter material (24), which is provided in the housing (ie. the area defined by the bottom of fuel tank but outside of the filter base 38 is interpreted as the "deposition tank"), into which said tank dirt filtered out of the fuel is deposited, and wherein a pressure accumulator (22) is installed in the fuel system which accumulates and stores fuel when the engine is running and after the engine is switched off, the fuel stored in the pressure accumulator rinses the fuel filter to thereby operatively deposit said dirt into said tank (col. 3, lines 31-40).

With respect to claim 9, Tuckey suggests the claimed subject matter thereof (col. 3, lines 31-40).

With respect to claim 16, Tuckey suggests the claimed subject matter (fig. 1).

With respect to independent claim 22, the Examiner first points out that the recitations in the preamble have not been given patentable weight. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Furthermore, claim 22 parallels that of claim 8. Thus, in order to provide a concise action, the Applicant's attention is directed to the rejection of claim 8.

With respect to claims 23 and 24, Tuckey teaches a fuel pump, pressure accumulator, and a fuel filter. Furthermore, Tuckey suggests the claimed layout thereof because the term "toward" as used by the Applicant is deemed very broad and generic.

With respect to claim 25, as pointed out above, Tuckey clearly suggests the claimed subject matter.

With respect to claim 26, Tuckey teaches a fuel filter (24), a pressure accumulator (22), a fuel pump (14), and a non-return valve (48) as claimed. Furthermore, Tuckey suggests the above as being a "preassembled unit" as claimed.

With respect to claim 27, Tuckey teaches a pressure regulator (28) and a non-return valve (48). Furthermore, Tuckey suggests the claimed layout thereof (fig. 1) with respect to the term "toward".

With respect to independent claim 28, said claim parallels that of claim 8. Thus, in order to provide a concise action, the Applicant's attention is directed to the above comments regarding claim 8.

Allowable Subject Matter

Claims 10-15, 18, 20, and 21 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 17 and 19 have been found to be allowable over the prior art.

Response to Arguments

In response to the Applicant's argument (the Applicant presented no amendments) that the prior art (Tuckey) does not describe a fuel filter having a housing as required by the claimed invention, the Examiner maintains the position that the area defined by the bottom of the fuel tank outside of the filter base (38) is a deposition tank as claimed by the Applicant.

First, the Examiner defines his interpretation of the structure of the prior art's invention. Figure 1 of the prior art shows a "sectional" view of the prior art's invention. Thus, the filter base (38) and the filter material (24), which is supported by said filter base, encompass the fuel inlet area (16). The area encompassed is bordered on its bottom by the fuel tank. The area on the bottom of the fuel tank outside the encompassed area is the area deemed as the deposition tank.

Thus, since the fuel tank contains the fuel filter material therewithin, the fuel tank itself is deemed as being the "fuel filter housing" as claimed. In support of such an interpretation, one having ordinary skill in the art armed with said prior art would have knowledge that fuel filters can be contained either within the fuel tank or have a separate housing exterior to the fuel tank. In the prior art, since the fuel filter is contained within the fuel tank, no separate exterior fuel filter is used. Thus, the fuel tank itself can be interpreted as the fuel filter housing. Fuel filters contained within a fuel tank are for the very same reason and carry out the very same function as exteriorly mounted fuel filters.

Thus, the Examiner has interpreted the prior art's fuel tank as the fuel filter housing as claimed by the Applicant. As such, the prior art anticipates a deposition tank formed into the

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housing of the fuel filter as claimed wherein the fuel filter of the prior art is rinsed in the very same way as that as the Applicant's fuel filter.

**CONCLUSION**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Eric S. McCall at telephone number (571) 272-2183.

  
Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Jan. 15, 2004